

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

EDWARD MAY, )  
Plaintiff, ) Civil Action No. 3: 13-CV-00069  
v. ) District Judge Kim R. Gibson /  
MICHAEL CASH, D.O., et al., ) Magistrate Judge Cynthia Reed Eddy  
Defendants. )  
)

**MEMORANDUM ORDER**

The above captioned case was initiated on March 27, 2013 by the filing of a motion to proceed *in forma pauperis* and was referred to a United States Magistrate Judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the Local Rules of Court for Magistrate Judges.

On July 2, 2013, Plaintiff filed an Amended Complaint (ECF No. 16), which remains the operative complaint. Named as Defendants are Michael Cash, D.O., Steven Burk, P.A., Jason Kopera, R.N., Normal Weidlich, Jeannette Nagy Pharmacy, Anthony Pazcoquin (collectively referred to as the “Federal Defendants” ), and John Shedlock, D.O, a non-Bureau of Prisons contract optometrist.

Defendant John Shedlock, D.O., filed a Motion to Dismiss seeking to have Plaintiff’s claims against him dismissed with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6) and Pennsylvania Rule of Civil Procedure 1042.3 and 1042. On December 20, 2013, the magistrate judge filed a Report and Recommendation (ECF No. 55) recommending that the Motion to Dismiss be granted, that amendment of the Amended Complaint would be futile, and that the claims against Defendant Shedlock should be dismissed with prejudice.

Plaintiff was served with the Report and Recommendation at his listed address and was advised that he had until January 6, 2014, to file written objections to the Report and Recommendation. Thereafter, Plaintiff was granted an extension of time until January 21, 2014, to file written objections.

On January 22, 2014, the Court received a document entitled “Response to Defendant John Shedlock Motion to Dismiss and Opinion of Magistrate,” (ECF No. 61), in which Plaintiff affirmatively states, *inter alia*, that “Plaintiff accepts the order issued by the Magistrate as it pertains to Defendant Shedlock and waives any objections to said order.”

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, and Plaintiff’s “Response to Defendant John Shedlock Motion to Dismiss and Opinion of Magistrate,” the following order is entered:

AND NOW, this 23<sup>rd</sup> day of January, 2014;

**IT IS HEREBY ORDERED** that the Motion to Dismiss filed by Defendant John Shedlock, D.O. (ECF No. 24) is **GRANTED** and all claims against Defendant Shedlock are dismissed with prejudice.

**IT IS FURTHER ORDERED** that the Report and Recommendation (ECF No. 55) is **ADOPTED** as the Opinion of the Court.

**IT IS FURTHER ORDERED** that this matter is remanded back to the magistrate judge for all further pretrial proceedings.

BY THE COURT:  
  
Kim R. Gibson  
United States District Judge

cc: EDWARD MAY  
21597-039  
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FEDERAL CORRECTIONAL INSTITUTION  
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